

### REMARKS/ARGUMENTS

This Preliminary Amendment is to support the Request for Continued Examination concurrently filed therein. In the Final Office Action dated July 18, 2003, the Examiner objected claim 37, and rejected claims 1-7, 10-15, 18-24, 27-32, 35-41, and 44-49 under 35 U.S.C. §102(b); and claims 8-9, 16-17, 25-26, 33,-34, 42,43, and 50-51 under 35 U.S.C. §103(a). Reconsideration in light of the amendments and remarks made herein is respectfully requested.

#### *Rejections Under 35 U.S.C. § 102 and § 103*

1. In the Final Office Action dated July 18, 2003, the Examiner rejected claims 1-7, 10-15, 18-24, 27-32, 35-41, and 44-49 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,090,011 issued to Fukuta et al. ("Fukuta"); and claims 8-9, 16-17, 25-26, 33,-34, 42,43, and 50-51 under 35 U.S.C. §103(a) as being unpatentable over Fukuta in view of U.S. Patent No 6,456,600 issued to Rochberger et al. ("Rochberger"). Applicants respectfully traverse the rejections and contend that the Examiner has not met the burden of establishing a prima facie case of anticipation and obviousness.

Applicants reiterate the arguments presented in the previous response. In particular, Applicants contend that the cited prior art references, alone or in any combination, do not disclose, suggest, or render obvious broadcasting the congestion status to at least one other node in a peer group.

In the advisory action dated December 19, 2003, the Examiner stated that the "[t]he fact the source node is receiving the congestion is not relevant as the claims disclose any other node receiving the status of the congested node" (Advisory Action, page 2). Applicants respectfully disagrees. The claim recite "a node broadcasting the congestion status to at least one other node". The word "other" node clearly indicates that it is not the same as the source node. However, the further clarify the claim language, claims 1, 10, 18, 27, 35, and 44 have been amended.

Therefore, Applicants believe that independent claims 1, 10, 18, 27, 35, 44 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicants respectfully request the rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) be withdrawn.

*Conclusion*

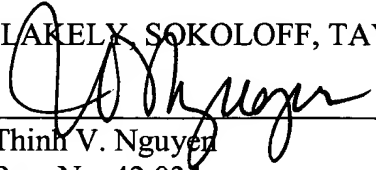
Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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